

REMARKS

This is a full and timely response to the non-final Office Action (Paper No./Mail Date 041102) mailed on November 16, 2004. Claims 70-73 are newly added. Claims 38-50, 56-60, and 70-73 are currently pending. Reconsideration and allowance of the Application and present claims are respectfully requested. The Applicants should not be presumed to agree with any statements made by the Examiner regarding the rejections and objections made in the Office Action unless otherwise specifically indicated by the Applicants.

I. Response to Restriction Requirement

The Office Action indicated that a provisional election was made with an option to traverse to prosecute the Group I, claims 38-50 and 56-60 in a telephone conversation between Examiner Scott Beliveau and Applicants' attorney, Minh Nguyen, on November 1, 2004. The Applicants affirm this election without traverse to prosecute Group I, claims 38-50 and 56-60. Claims 51-55 and 61-59 are cancelled, and the Applicants expressly reserve the right to present the non-elected claims, or variance thereof, in continuing applications to be filed subsequent to the present Application.

II. Priority

The Applicants greatly appreciate the Examiner's statement in the previous Office Action (Paper No./Mail Date 041102) in which claims 38-50 and 56-60 receive the benefit of the filing date of 11 June 1999.

III. Response to Claim Rejections Under 35 U.S.C. §103

In the Office Action, claims 38-41, 56, and 57 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,166,730 to *Goode, et al.* in view of U.S. Patent No. 5,721,829 to *Dunn, et al.* Claims 42-50 and 58-60 stand rejected as being anticipated by *Goode* and in view of U.S. Patent No. 5,969,748 to *Casement, et al.*

In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the prior art reference must suggest all steps/elements/features of the claimed invention to one of ordinary

skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

A. Claim 38

Claim 38, as amended, recites:

A method comprising the steps of:

- determining if at least one current rental exists;
- responsive to determining that at least one current rental does exist,
- determining whether an active video-on-demand (VOD) session for a first VOD presentation exists;
- providing a selectable option to view the first VOD presentation responsive to determining that the active VOD session exists;
- responsive to determining that the at least one current rental exists and no active VOD session exists for the first VOD presentation, determining whether the first VOD presentation has been reactivated;***
- responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation;*** and
- providing a list of selectable VOD titles responsive to determining at least one current rental does not exist.

(Emphasis Added)

The Applicants respectfully submit that *Goode* and *Dunn* fail to disclose, teach, or suggest “responsive to determining that the at least one current rental exists and no active VOD session exists for the first VOD presentation, determining whether the first VOD presentation has been reactivated; responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation,” as recited in claim 38. In fact, *Goode* appears to disclose in FIG. 11 as follows:

“a flow diagram of a method for updating an active program screen within a multiple set top terminal environment. An active program screen (or saved movie screen) comprises a list of movie or information stream titles previously selected by a user, that are, presumably, associated with respective open sessions billed against the user's account number. The active program screen is displayed upon the user's display device such that the user may select a presently open (i.e., “active”) session for presentation, e.g., finish watching a movie before the use timer expires. Therefore, the active programs comprise movies or other information streams that the user has paid for and has not fully utilized.

...

At task 1110 the session control manager, in response to the user selection at task 1105, determines which sessions associated with the user's account number are, in fact, open. For example, the session control manager may examine all of the existing session tables (620) that include a user account number (621) that is the same as the user's account number (611) and have use timer (623) and view timer (624) parameters that have not yet expired. The method 1100 then proceeds to task 1115.

At task 1115 the session control manager removes any open sessions in use by another set top terminal associated with the user's account. That is, the SCM removes from the "active program list" any of the open sessions determined at task 1110 that are presently being viewed by, e.g., someone using another set top terminal associated with the user's account number."

(*Goode*, column 17, line 55 – column 18, line 20).

Goode fails to disclose, teach, or suggest "responsive to determining that the at least one current rental exists and no active VOD session exists for the first VOD presentation, determining whether the first VOD presentation has been reactivated; responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation," as recited in claim 38.

In addition, *Dunn* is merely used to show "a VOD system that 'determines if at least one current rental exists' and 'responsive to determining that at least one currently rental does not exist' it 'provides a list of selectable VOD titles.'" (*Dunn*, column 7, lines 20-34). In fact, *Dunn* discloses the step of determining whether an unfinished program exists. (Step 204 of Fig. 7, Column 7, lines 25-28). The Applicants respectfully submit that *Dunn* also fails to disclose, teach, or suggest "responsive to determining that the at least one current rental exists and no active VOD session exists for the first VOD presentation, determining whether the first VOD presentation has been reactivated; responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation," as recited in claim 38. Accordingly, because *Goode* and *Dunn*, both in combination and individually, fail to disclose, teach, or suggest the above-quoted element, the Applicants respectfully submit that claim 38 be allowed and the rejection be withdrawn for at least this reason, among others.

B. Claim 56

Claim 56, as amended, recites:

A digital home communication terminal (DHCT) comprising:
memory; and
program code stored in said memory and configured to enable the
DHCT to,
determining if at least one current rental exists,
responsive to determining that at least one current rental
does exist, determine whether an active video-on-demand (VOD)
session for a first VOD presentation exists,
provide a selectable option to view the first VOD
presentation responsive to determining that the active VOD session
exists,
responsive to determining that the at least one current rental
exists and no active VOD session exists for the first VOD
presentation, determining whether the first VOD presentation has
been reactivated,
responsive to determining that the first VOD presentation
was reactivated, setting up another active VOD session for the first
VOD presentation, and
provide a list of selectable VOD titles responsive to
determining that at least one current rental does not exist.

(Emphasis Added)

As mentioned above with reference to claim 38, the Applicants respectfully submit that *Goode* and *Dunn* also fail to disclose, teach, or suggest “responsive to determining that the at least one current rental exists and no active VOD session exists for the first VOD presentation, determining whether the first VOD presentation has been reactivated, responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation,” as recited in claim 56. Accordingly, because *Goode* and *Dunn*, both in combination and individually, fail to disclose, teach, or suggest the above-quoted element, the Applicants respectfully submit that claim 56 be allowed and the rejection be withdrawn for at least this reason, among others.

C. Claims 39-50 and 57-60

Because independent claims 38 and 56 are allowable over the cited art of record, dependent claims 39-50 and 57-60 are allowable as a matter of law for at least the reason that dependent claims 39-50 and 57-60 contain all features and elements of their respective independent base claims. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Accordingly, the rejection to dependent claims 39-50 and 57-60 should be withdrawn for at least this reason, among others.

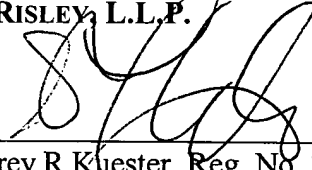
IV. Newly Added Claims

Because independent claims 38 and 56 are allowable over the cited art of record, newly added dependent claims 70-73 are allowable as a matter of law for at least the reason that dependent claims 70-73 contain all features and elements of their respective independent base claims. *In re Fine*, supra. Accordingly, the rejection to dependent claims 70-73 should be withdrawn for at least this reason, among others.

CONCLUSION

The Applicants respectfully maintain that the currently pending claims 38-50, 56-60, and 70-73 are in condition for allowance. Should the Examiner have any comments or suggestions that would place the subject patent application in better condition for allowance, he is respectfully requested to telephone the undersigned attorney at (770) 933-9500.

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